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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,258	02/19/2002	Jose Maria Serichol Blasco	SERICHOL BLASCO - 1	6097

7590

03/08/2004

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Roslyn, NY 11576-1696

EXAMINER
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SHAH, SAUMIL R

ART UNIT	PAPER NUMBER
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2186

DATE MAILED: 03/08/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/079,258

Applicant(s)

SERICHOL BLASCO, JOSE MARIA

Examiner

Saumil Shah

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Regarding claim 4, the phrase "such as" is indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2-4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thorpe (US Patent No. 5,276,865).

- a. With regard to claim 2, Thorpe discloses a system for making automatic backup copies (note column 2, lines 29-30) of selected files (note column 3, lines 8-9 where the user can select what drives are to be backed up and thus selecting the files) stored in a hard drive of at least one computer and storing said copies in a storage unit connected to said computer (note column 2, lines 31-32),

wherein a configurable control software is installed in the hard drive (note column 5, lines 9-10), wherein said control software includes a backup software (note column 5, lines line 38) and wherein when a user interacts with the computer and generates a command for the computer to be switched off (note column 8, lines 17-20 where the user turns the switch to "off" to send the command to the CPU), the control software detects the command and automatically runs the backup software for making the configurable backup copies of selected files from the computer's hard drive to the storage unit (note column 7, lines 17-19 and lines 54-57 where the backup is done automatically), after which the control software switches off the computer by cutting power via a disconnection device (note column 7, lines 60-62).

b. With regard to claim 3, Thorpe discloses a system according to claim 2, wherein the disconnection device is a power relay. (note column 7, lines 60-62).

c. With regard to claim 4, Thorpe discloses a system according to claim 2, wherein the disconnection device is built into the computer and controlled by software (note column 8, lines 10-17 where the system is built into the computer), such as an ATX board and an operating system.

d. With regard to claim 8, Thorpe discloses everything as is described for claims 2-4 above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thorpe (US Patent No. 5,276,865) in view of Langford (US Patent No. 6,574,733).

a. With regard to claim 5, Thorpe discloses everything as is described for claim 2 above.

Thorpe fails to disclose a system wherein the backup copies are encrypted.

Langford teaches a system wherein the backup copies are encrypted (note column 6, lines 12-14)

Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to have encrypted the backup copies as taught by Langford in the system of Thorpe since this would have increased the security of the backup data.

b. With regard to claim 6, Thorpe discloses everything as is described for claim 2 above.

Thorpe fails to disclose a system wherein the control software is accessed by means of a user security code.

Langford teaches a system wherein the control software is accessed by means of a user security code (note column 6, lines 20-23 where only the user that generated the data has access to the private key. Also, since the user is on

a network, it is understood that there is a user name / I.D. and password associated with that user to log onto the network).

Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the control software accessed by means of a user security code as taught by Langford to the system of Thorpe since this would have increased the security of the control system by disallowing unauthorized users to use the control software.

c. With regard to claim 7, the combined system of Thorpe/ Langford teaches a system according to claim 6 as described above. Langford further teaches a system wherein the user security code is required to restore the encrypted copies (note column 6, lines 20-24 where only the user that generated the data has the private decryption key).

***Conclusion***


7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saumil Shah whose telephone number is 703-305-8786. The examiner can normally be reached on 9:00 AM to 5:30 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 703-305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Saumil Shah  
Patent Examiner  
AU: 2186

February 23, 2004



BEHZAD JAMES PEIKARI  
PRIMARY EXAMINER